



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2018–N078; FXES11130200000–189–FF02ENEH00]

Draft Safe Harbor Agreement Amendment and Application for an Enhancement of Survival Permit for the Rio Salado Project, in Tempe, Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce receiving the City of Tempe’s survival enhancement permit application, under the Endangered Species Act. The requested amended permit would allow for the City of Tempe to conduct, to a greater degree, adaptive biological monitoring and would authorize incidental take of the yellow-billed cuckoo as a result of operation and maintenance activities associated with the Rio Salado Project, in the City of Tempe (Tempe Reach), Maricopa County, AZ. In accordance with National Environmental Policy Act (NEPA) requirements, we have determined that the proposed action qualifies under a categorical exclusion. We are accepting comments on the draft safe harbor agreement amendment (Draft SHA Amendment), and draft NEPA screening form supporting the use of a categorical exclusion.

DATES: *Submission of Comments:* We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents at <https://www.fws.gov/southwest/es/arizona/>. Alternatively, you may obtain CD-ROMs with

electronic copies of the documents by writing to the Acting Field Supervisor, U.S. Fish and Wildlife Service, 9828 North 31st Avenue, Phoenix, AZ 85051–2517; calling (602) 242–0210; faxing (602) 242–2513, as well as by email. A limited number of printed copies of the documents are also available, by request, from the Acting Field Supervisor. Copies of the documents are also available for public inspection and review, by appointment only, at the Service’s Phoenix office (above) or at U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 6093, Albuquerque, NM 87102.

Submitting Comments:

To submit written comments, please use one of the following methods, and note that your comment is in reference to the Draft SHA Amendment and Application for an Enhancement of Survival Permit for the Rio Salado, Tempe, AZ.

- *U.S. Mail:* Brenda Smith, Acting Field Supervisor, Phoenix office (address above).
- *Fax:* (602) 242–2513.
- *Email:* FW2_HCP_Permits@fws.gov.

We request that you submit comments only by the methods described above. Generally, we will post any personal information you provide us (see **Public Availability of Comments** for more information).

FOR FURTHER INFORMATION CONTACT: Brenda Smith, Acting Field Supervisor, (602) 242–0210 (telephone).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce receiving the City of Tempe’s application to amend an existing enhancement of survival permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested amended permit would allow for the City of Tempe to conduct, to a greater

degree, adaptive biological monitoring (annual monitoring until 2020, and then at least every 3 years after), and would authorize incidental take of the yellow-billed cuckoo as a result of operation and maintenance activities associated with the Rio Salado Project, Tempe Reach (approximately from McClintock Drive to Priest Drive, excluding Tempe Town Lake within the Salt River floodplain). The amended permit would expire on May 1, 2058, to coincide with the expiration date of the original permit (50 years after the issuing date of May 1, 2008). We invite the public to review and comment on the Draft SHA Amendment and draft NEPA screening form supporting the use of a categorical exclusion in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

The applicant plans to conduct operation and maintenance activities associated with the Rio Salado Project, Tempe Reach, including maintenance of vegetation, roads, trails, water delivery system, flood control capacity, and storm water facilities. Initial implementation of the Rio Salado Project, Tempe Reach, was a cooperative project between the Applicant and the U.S. Army Corps of Engineers to restore, enhance, and maintain 159 acres of native riparian and wetland vegetation along the lower Salt River in Maricopa County, Arizona.

Background

Enhancement of survival permits issued for safe harbor agreements encourage non-Federal landowners, including non-Federal operators holding easements on private lands, to implement conservation measures for habitat that is, or is likely to develop into, suitable habitat for listed species, by assuring landowners/operators that they will not be subjected to increased property use restrictions if suitable habitat develops and the covered species is detected in the future. Application requirements and enhancement of survival permit issuance criteria for safe harbor agreements are provided under section 10(c) of the ESA and its implementing regulations

from the Code of Federal Regulations (CFR) at 50 CFR 17.22, and the NEPA and its implementing regulations at 40 CFR 1506.6.

Proposed Action

The proposed action is the Service's issuance of a permit for covered activities in the permit area for up to 50 years, pursuant to section 10(a)(1)(A) of the ESA. The permit would cover "take" of the yellow-billed cuckoo associated with covered activities occurring within the permit area.

The Draft SHA Amendment commits the City of Tempe to implement conservation measures to improve habitat for the covered species on Rio Salado lands uses while allowing for covered activities within the project area to continue.

To meet section 10(a)(1)(A) permit requirements, the applicant developed and proposes to implement the SHA and SHA Amendment, which describe the actions the City of Tempe has agreed to undertake to improve habitat within the Rio Salado Project, Tempe Reach, area.

Expected benefits include, but may not be limited to: Improvement of riparian habitat which can be used by both covered species and other native fauna, limiting the amount of new disturbance to riparian habitat, and improving environmental exposure to the public.

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the SHA Amendment. We will fully consider all comments we receive during the public comment period, and we will not make our final decision until after the comment period ends.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA and ESA implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: August 20, 2018.

James Broska,

*Acting Deputy Regional Director, Southwest Region,
Albuquerque, New Mexico.*

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